

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13677, of Kenneth A. McDonald, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from general offices, first and second floors, to a restaurant, first and second floors, in an SP-2 District, at the premises 1335 Green Court, N.W., (Square 247, Lot 831).

HEARING DATE: February 17, 1982
DECISION DATE: March 3, 1982

DISPOSITION: The Board GRANTED the application SUBJECT to CONDITIONS by a vote of 4-0 (Walter B. Lewis, Connie Fortune, William F. McIntosh and Charles R. Norris to GRANT; Douglas J. Patton not voting, not having heard the case).

RINAL DATE OF ORDER: May 24, 1982

ORDER

By letter dated July 9, 1982, Mr. Jess Fischer, president of the Robert Cecelia Investment Corp., owner of 1314 Massachusetts Avenue, N.W., which abuts the subject property requested that the application be reopened for public hearing. Mr. Fischer contended that he was not notified of the public hearing on the subject application as required by Section 3.322 of the Rules of Practice and Procedure before the Board of Zoning Adjustment. Mr. Fischer's letter stated that he and the eighty-seven residents of 1314 Massachusetts Avenue, N.W., were unaware of the application. He requested the further hearing to present their objections to the applicant's proposal.

The record in the subject application reflects that a public hearing notice was mailed to the Robert Cecelia Investment Corp., at 1707 L Street, N.W., Apt. 700, Washington, D.C. 20036. That address was supplied by the applicant, as required by the instructions on the BZA application form. That public hearing notice was returned by the U.S. Postal Service stamped as "Returned to Sender Moved, not Forwardable."

On July 23, 1982, the Board received a response to Mr. Fischer's request from the counsel for the applicant requesting that the Board deny the request to reopen the case. The Counsel for the applicant stated that the request for further hearing is not timely filed, that the applicant complied with the notice requirements and that the request is inadequate in that Mr. Fischer did not evidence authorization to represent the views of his tenants. Counsel for the applicant attached a copy of a Real Property Information Request from the Department of Finance and Revenue indicating the address of the owner of 1314 Massachusetts Avenue, N.W., is identical to that to which the public hearing notice was sent and a copy of the affidavit of posting filed by the applicant to indicate proper posting of the property itself.

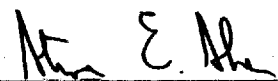
Upon consideration of the request for further hearing, the applicant's response thereto, and the record, the Board concludes that the allegation of improper notice is unfounded. The Board concludes that the applicant supplied a complete list of property owners within 200 feet of the subject property based on reliable information from the Department of Finance and Revenue. The Board further concludes that the proper posting of the subject site, as evidenced by the affidavit of posting, afforded the tenants of 1314 Massachusetts Avenue, N.W., ample notice of the public hearing as required by the rules. The Board notes that mailed notice is only one of a number of forms of notice, and that in all respects, there were adequate opportunities for the public to hear of the hearing on the application.

Accordingly, it is ORDERED that the request for FURTHER HEARING is DENIED.

VOTE: 4-0 (Walter B. Lewis, Douglas J. Patton, William F. McIntosh and Charles R. Norris to DENY; Connie Fortune not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER AUG 31 1982

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UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."